IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 14449US02)

In re: Jeyhan Karaoguz et al

Serial No.   10/675,903

Filed: September 30, 2003   **Electronically filed on**
                                                 November 6, 2007

For: Quality of Service Support In a
               Media Exchange Network

Examiner: Tri H. Phan

Art Unit: 2616

Conf. No.   6132

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on August 6, 2007 (hereinafter, the Final OA). The Final OA states that the Applicant's reply to the previous office action (mailed on January 17, 2007, hereinafter "January OA") is not persuasive. No amendments are being filed with this request. This request is being filed with a Notice of Appeal.

REMARKS

The present application includes pending claims 1-31, which have been finally rejected for the same reasons as stated in the January OA. The Applicant traverses this final rejection at least for the reasons stated in the response to the January OA, filed on May 17, 2007. The Applicant respectfully refers to that response for detailed arguments

regarding the allowability of the claims 1-31. In this pre-appeal brief, the Applicant will address the "Response to Amendments/Arguments" section of the Final OA.

Regarding the Examiner's Response to Amendments/Arguments
With respect to Radford 102(a) rejection (pp10-11)

The Final OA states that Radford anticipates claim 1. Claim 1 states, "receiving an input specifying at least one media file for transfer via a communication channel in the communication network; causing a display of a plurality of quality of service options corresponding to said at least one media file for selection by a remote user; receiving a quality of service selection specifying at least one of said plurality of quality of service options; and transferring said at least one media file via said communication channel utilizing said quality of service selection."

The Final OA states on pages 10-11 that "Radford discloses, wherein the initial request and quality level, e.g. 'input specifying media file for transfer', are set/selected by the user in the data transfer preference as specified in page 2, para [0019], lines 1-6; **before** the initial streamed data file is transferred (see page 2, para [0018], lines 12-14; e.g. which is occurred (*sic*) **after** the media file is specified but **before** the specified media file is transferred." However, paragraph [19], lines 1-6 describe how initial quality levels can be set so that a media file that is selected at a later time can be transferred without further user action. For example, Radford states, "It is generally preferred that the user only need perform a single action to initiate streaming content delivery." Page 2, paragraph [18], lines 10-12. Furthermore, paragraph [18], lines 12-14 state, "In response to the user's request, an initial streamed data file is transferred over the communications network to the client device from a hosting server or servers."

It is clear that Radford does not disclose "causing a display of a plurality of quality of service options corresponding to said at least one media file for selection by a remote user" **after** the media file is specified but **before** transferring the specified media file.

Furthermore, the Final OA states that "by re-requesting, the user can adjust the quality level" of the re-requested file, and cites fig. 2, page 4, paragraphs [29-31]. Figure 2 shows a display section with various quality level controls around it. Paragraphs [29-31] describe how an initial content is delivered and a user can request change in the quality of

the media file **presently being delivered**. Paragraph [31] states that the request for change "carries a time-stamp or a pointer, such that the new data is streamed starting from a position relative to the approximate point when the user selected a desire to change the quality level." Lines 13-16. Accordingly, Radford does not disclose a quality level selected after specifying a media file. Rather, Radford discloses a default quality level that is already selected prior to specifying the media file, sending the media file using the default quality level, and if a user decides to change the default quality level, sending a remainder of the file via the new quality level.

This is not the same as claim 1, which states: "receiving an input specifying at least one media file for transfer via a communication channel in the communication network; causing a display of a plurality of quality of service options corresponding to said at least one media file for selection by a remote user; receiving a quality of service selection specifying at least one of said plurality of quality of service options; and transferring said at least one media file via said communication channel utilizing said quality of service selection."

The Final OA also states that Radford discloses quality adjustment by a "user in the re-request and provide to the servers for delivering the second data content file to user as desired." Page 11. However, as explained above, Radford discloses a user receiving a media file at a default quality level, and then, if the user chooses to change the quality level, **a remainder** of the same media file being sent at the new quality level. This is not "causing a display of a plurality of quality of service options corresponding to said at least one media file for selection by a remote user" **after** the media file is specified, "receiving a quality of service selection specifying at least one of said plurality of quality of service options," and "transferring said media file via said communication channel utilizing said quality of service selection."

Accordingly, Radford does not anticipate claim 1 of the present application.

With respect to the Nakatsuyama 102(b) rejection (p12)

The Final Office Action states that Nakatsuyama discloses "causing a display of a plurality of quality of service options for selection by a remote user" in column 5, lines 50-51. However, the lines 50-51 need to be read in context of Nakatsuyama column 5, lines

5-38. Lines 5-23 state that various information, including the media file name, and data quality information should be transferred to the server. Lines 24-38 state that the various information should be entered "after start-up of the control program ... there will appear on the display screen 15a of the monitor a content name input field 2 for entry of a content name, a quality setting field 3 for setting of the quality of a requested data to be served ... a transfer time setting field 4 for setting of the transfer time ..., and a genre select field 5 for selection of the genre of the requested data to be served fro the data transmitter 20."

It is clear that Nakatsuyama discloses displaying the quality of service options **prior to** the media file name being entered. Accordingly, Nakatsuyama does not disclose "causing a display of a plurality of quality of service options for selection by a remote user" **after** the media file is specified, and therefore, cannot anticipate claim 1 of the present application.

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CONCLUSION

Based on the arguments made above, the Applicant respectfully submits that claims 1-31 are in condition for allowance at least for the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. Moreover, the Applicant reserves the right to argue in further detail various issues related to prosecution of this application if needed, and the right to argue other issues not discussed in this pre-appeal brief, including the traversal of Official Notice with respect to the dependent claims 6, 16, and 26 and the 103(a) rejection of the dependent claims 6, 8-9, 16, 18-19, 26, and 28-29.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: November 6, 2007

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